

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|------------------------------|---|--------------------------|
| TAREQ ISMAEL, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. 99-1932 |
| |) | |
| ABBAS ALI, MANTON GIBBS, |) | Judge Lancaster |
| AMERICAN SOCIETY FOR |) | |
| COMPETITIVENESS, and INDIANA |) | |
| UNIVERSITY OF PENNSYLVANIA, |) | ELECTRONICALLY FILED |
| |) | |
| Defendants. |) | |

STIPULATION

Defendants Abbas Ali, Manton Gibbs and the American Society for Competitiveness (the "ASC") and Plaintiff Tareq Ismael, hereby enter into this stipulation, as follows:

WHEREAS, all Defendants originally named in this action, other than the Defendants Ali, Gibbs and ASC, have previously been dismissed from this action; and

WHEREAS, by Order dated January 31, 2007, the District Court granted the Motion for Summary Judgment of Defendants Ali and Gibbs, leaving ASC as the only remaining Defendant in this case; and

WHEREAS, the Parties agree that judicial economy is best served by the final resolution of the sovereign immunity issue as it pertains to Ali and Gibbs, and

WHEREAS, Defendants represent that ASC is and has been without substantial assets outside of regular dues and conference proceeds, such as would warrant proceeding further against the ASC alone,

WHEREAS, Defendants withdraw their counterclaims against Plaintiff, without prejudice as set forth below,

NOW, THEREFORE, the Parties hereto stipulate as follows:

1. The Parties request the District Court to enter an Order dismissing the ASC from this action without prejudice as follows;
2. The Parties request the District Court to enter an Order marking the counterclaims of Defendants as withdrawn without prejudice;
3. The foregoing dismissal and withdrawal, in conjunction with the Order granting Summary Judgment in favor of Defendants Ali and Gibbs, renders the latter a final appealable Order as all claims against all parties have been determined by the Trial Court;
4. In the event that Plaintiff appeals the Order granting summary judgment in favor of Ali and Gibbs and obtains a reversal or remand of that Order from the Court of Appeals for the Third Circuit, such reversal or remand will be deemed to be a reversal of the dismissal of the ASC, such that the ASC would again be a party Defendant, along with Defendants Ali and Gibbs and Defendants' counterclaims against Plaintiff would be reinstated.
5. In the event that no appeal is taken or the grant of Summary Judgment in favor of Ali and Gibbs is upheld on appeal, the dismissal of ASC and the withdrawal of the counterclaims shall be without prejudice.

s/Joel F. Bigatel

Joel F. Bigatel, Esquire
Counsel for Plaintiff, Tareq Ismael
211 Haverford Avenue – Suite 2F
Narberth, PA 19072-2210

(610) 667-3282 TEL
(610) 617-9983 FAX
jfaty@verizon.net
PA ID 32740

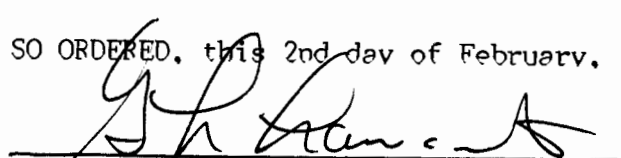
s/ Bruce C. Fox

Bruce C. Fox, Esquire (PA ID 42576)
Rudy A. Fabian, Esquire (PA ID 56703)
Counsel for Abbas Ali, Manton, Gibbs, and
American Society for Competitiveness
Obermayer Rebmann Maxwell
& Hippel LLP
One Mellon Center, Suite 5240
500 Grant Street
Pittsburgh, PA 15219

(412) 566-1500 TEL
(412) 566-1508 FAX

4126260

SO ORDERED, this 2nd day of February, 2007.



Gary L. Lancaster, U.S. District Judge